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09/702,045	10/31/2000	Louis J. Morsberger	MFSI-001/01US	8530

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EXAMINER

ROBINSON BOYCE, AKIBA K

ART UNIT PAPER NUMBER

3639

DATE MAILED: 07/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/702,045

Applicant(s)

MORSBERGER, LOUIS J.

Examiner

Akiba K. Robinson-Boyce

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Status of Claims*

1. Due to communications filed 4/29/05, the following is a final office action. Claim 15 has been amended. Claims 1-26 are pending in this application and have been examined on the merits. The previous rejection has been maintained. Claims 1-26 are still rejected as follows.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-10 and 12-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shkedy (US 6,260,024), and further in view of Boe et al (US 6,236,975).

As per claims 1, 25, 26, Shkedy discloses:

A processor-readable medium comprising code representing instructions to cause a processor to, (Col. 9, lines 15-17, program codes for causing the processor to operate):

Receive transaction information related to a transaction, the transaction information including consumer information and merchant information/ Receive

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transaction/monetary transaction information related to a transaction between a consumer and a merchant, the transaction/monetary transaction information including consumer information about the consumer participant in the transaction/to the monetary transaction, and merchant information/the monetary transaction further including merchant information about the/a merchant participant in/to the transaction, (Col. 5, lines 13-15, lines 28-30, [buyer identification, specification of item, quantity represents transaction data, seller bidding date represents merchant information], Col. 6, lines 8-10, [sellers identifying PPOs relevant to their products also represents seller information]);

compare the consumer information with predetermined consumer information, (Col. 5, lines 61-63, [authenticating against the buyer database]);

compare the merchant information with predetermined merchant information, (Col. 6, lines 22-23, authenticating the identification of a seller], (Col. 30, lines 1-3, [comparing with seller identification database];

Shkedy fails to disclose the following, however Boe et al discloses:

determine whether to invite the consumer to complete a survey related to the transaction/monetary transaction based at least partially on the comparison of the consumer information and the comparison of the merchant information, (Col. 5, lines 9-22, matching database determining what subsequent question to present to a customer when a customer returns to a survey after he or she partially completes the survey, in this case, the determination is made based on customer data stored in the matching database about which question he or she answered last relating to business

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products/services also stored by matching database). Boe et al discloses this limitation in an analogous art for the purpose of determining if the customer can continue a survey he or she previously started.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to determine whether to invite the consumer to complete a survey related to the transaction based at least partially on the comparison of the consumer information and the comparison of the merchant information with the motivation of collecting the owner's views in order to get a better idea of how to improve the processing of the transaction.

As per claim 2, Shkedy discloses:

wherein the consumer information includes a consumer identification code, and the predetermined consumer information includes information relating to consumers defined as prospective offerees, (Col. 5, lines 13-15, [buyer identification], w/ Col. 7, lines 26-32, [pre-negotiated seller contract with prospective buyers]).

As per claim 3, Shkedy discloses:

wherein the predetermined merchant information includes information relating to categories of purchases, and wherein determining whether to invite the consumer to complete a survey includes determining whether the transaction corresponds to one of said categories of purchases, and wherein the code representing instructions to cause a processor to determine whether to invite the consumer to complete a survey includes code representing instructions to cause a processor to determine whether the

transaction corresponds to one of said categories of purchases, (Col. 7, lines 33-42, [pre-negotiates a contract, collective buyer pool]).

As per claim 4, Shkedy discloses:

wherein the code representing instructions to cause a processor to determine whether the transaction corresponds to one of said categories of purchases includes code representing instructions to cause a processor to determine whether there is an unsatisfied quota of survey invitations for the particular type of transaction, (Ab, lines 12-14, [resolve disputes]).

As per claim 5, Shkedy discloses:

wherein the code representing instructions to cause a processor to determine whether to invite the consumer to complete a survey includes code representing instructions to cause a processor to determine whether the transaction meets predetermined criteria and is a qualifying transaction, (Col. 5, line 60-Col. 6, line 17, authenticating the buyers' identification number against a buyer database, and ensuring that buyer has sufficient credit).

As per claim 6, Shkedy fails to disclose transmitting, receiving and processing a survey that deals with a purchase transaction, but does disclose a system for creating contracts for purchase transactions.

However, Boe et al discloses:

transmitting to the consumer an invitation to complete a survey relating to the qualifying transaction, (Col. 6, lines 65-67, survey system displaying links to customer,

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also Col. 9, lines 12-15, shows that the survey system displays a welcome message upon customer access);

receiving survey information from the consumer relating to the qualifying transaction, (Col. 6, line 67-Col. 7, line 2, customer responds));and

processing the received survey information, (Col. 7, lines 1-2, updating the choice of advertisement as the customer responds to survey questions).

Boe et al discloses these limitations in an analogous art for the purpose of showing how a survey is used to process a purchase transaction.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to transmit a survey, receive the survey information and process the received survey information with the motivation of obtaining relevant feedback information about a customer's transaction.

As per claim 7, Shkedy discloses:

wherein the predetermined consumer information is provided by a party to the transaction other than a merchant, (Col. 1, lines 8-12, [intermediary]).

As per claim 8, Shkedy fails to disclose offering processed survey information to the merchant; and granting access to the processed survey information to the merchant, but does disclose a system where purchase offers by buyers are communicated to sellers in a purchase transaction in the abstract, lines 7-12.

However Boe et al discloses:

offering processed survey information to the merchant; and granting access to the processed survey information to the merchant, (Col. 3, lines 35-42, survey system

processing data associated with survey responses ). Boe et al discloses this limitation in an analogous art for the purpose of allowing the survey system to prepare customized reports to the business system.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to offer and grant access to the processed survey information to the merchant with the motivation of allowing the merchant to access customer information about the transaction that will help with the improvement of future transactions.

As per claim 9, Shkedy discloses:

wherein the transaction information includes a transaction record, the transaction record being in at least one of an electronic form and a digital form, and the code representing instructions to cause a processor to receive transaction information is configured to receive a set of transaction information regarding several transactions, (Col. 13, lines 7-8, [FPO represents the record], Col. 13, lines 31-34, [electronic contract], w/ Ab, lines 7-12, [facilitating transactions by aggregating offers]).

As per claim 10, Shkedy discloses:

receiving consumer information from participating consumers, (Col. 5, lines 13-15, [buyer identification]);

developing historical consumer information for each of the participating consumers, (Col. 10, lines 1-7, [credit history]);



receiving transaction information relating to a transaction, the transaction information including information relating to the consumer in the transaction, (Col. 5, lines 13-15, [buyer identification]);

determining, using the information relating to the consumer in the transaction, whether the consumer in the transaction is a participating consumer, (Col. 5, lines 13-15, [buyer items]); and

determining, using the historical consumer information, (Col. 10, lines 1-7, [credit history of transactions],

Shkedy fails to disclose inviting consumers to participate in a survey program/determining...whether to collect survey information from the consumer in the transaction, but does disclose a system where purchase offers by buyers are communicated to sellers in a purchase transaction in the abstract, lines 7-12.

However Boe et al discloses:

inviting consumers to participate in a survey program, (Col. 6, lines 65-67, survey system displaying links to customer, and Col. 9, lines 12-15, shows that the survey system displays a welcome message upon customer access);

determining...whether to collect survey information from the consumer in the transaction, (Col. 5, lines 9-22, matching database determining what subsequent question to present to a customer when a customer returns to a survey after he or she partially completes the survey, in this case, the determination is made based on customer data stored in the matching database about which question he or she answered last relating to business products/services also stored by matching database);

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receiving survey information from the consumer relating to the qualifying transaction, (Col. 6, line 67-Col. 7, line 2, customer responds).

Boe et al discloses these limitations in an analogous art for the purpose of showing how a survey is used to process a purchase transaction.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to invite customers for a survey, determine whether to collect the survey answers, and to receive answers from consumers with the motivation of collecting survey answers from an appropriate consumer.

As per claim 12, Shkedy discloses:

wherein the transaction information includes at least one of the category of the transaction and the payment amount of the transaction, and the code representing instruction to cause a processor to determine whether to solicit survey information from the consumer in the transaction includes using at least one of the category of the transaction and the payment amount of the transaction, (Col. 5, lines 10-11, [category included in FPO], w/ Col. 5, line 67-Col. 6, line 3, [authenticating and adding to FPO]).

As per claim 13, Shkedy fails to disclose wherein soliciting survey information includes transmitting a survey invitation to the consumer to the transaction, but does disclose a system where purchase offers by buyers are communicated to sellers in a purchase transaction in the abstract, lines 7-12.

However Boe et al discloses:

wherein soliciting survey information includes transmitting a survey invitation to the consumer to the transaction, (Col. 6, lines 65-67, survey system displaying links to

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customer, and Col. 9, lines 12-15, shows that the survey system displays a welcome message upon customer access). Boe et al discloses this limitation in an analogous art for the purpose of showing that the survey system offers survey information through links.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to transmit the survey invitation to the consumer and to include instructions with the motivation of allowing the consumer to have accessibility to a survey that can be easily interpreted.

As per claim 14, Shkedy fails to disclose wherein the survey invitation includes a survey instrument, but does disclose a system where purchase offers by buyers are communicated to sellers in a purchase transaction in the abstract, lines 7-12.

However Boe et al discloses:

wherein the survey invitation includes a survey instrument, (Col. 9, lines 12-15, here the survey system's interface for question display serves as the instrument). Boe et al discloses this limitation with the motivation of showing that the display on the survey system is utilized for survey presentation).

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention for the survey invitation to include a survey instrument with the motivation of providing something tangible which would assist a user in documented answers to survey questions.

As per claim 15, Shkedy discloses:

wherein the transaction information includes a transaction record, the transaction record being in at least one of an electronic form and a digital form, and the code representing instructions to cause a processor to receive transaction information is configured to cause a processor to receive a set of transaction information regarding several transactions, (Col. 13, lines 7-8, [FPO represents the record], Col. 13, lines 31-34, [electronic contract], w/ Ab, lines 7-12, [facilitating transactions by aggregating offers]).

As per claim 16, Shkedy discloses:

- a monitoring interface processing transaction information from the transaction, (Col. 13, lines 8-9, [central controller {200}], the transaction information including a transaction record with information relating to the consumer to the transaction, Col. 13, lines 7-8, [FPO represents the record], the transaction record being in at least one of an electronic form and a digital form, Col. 13, lines 31-34, [electronic contract];

- a processor configured to analyze said transaction record relative to stored consumer information, (Col. 12, line 2, [processing device]); and

- a participant interface enabling the consumer to the transaction to provide... information, (Col. 13, line 10, [buyer interface]);

Shkedy fails to disclose the following, however Boe et al discloses:

- the processor further configured to determine whether to solicit survey information from the consumer to the transaction based at least partially on the transaction record and the stored consumer information/survey information, (Col. 5, lines 9-22, matching database determining what subsequent question to present to a

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customer when a customer returns to a survey after he or she partially completes the survey, in this case, the determination is made based on customer data stored in the matching database about which question he or she answered last relating to business products/services also stored by matching database). Boe et al discloses this limitation in an analogous art for the purpose of determining if the customer can continue a survey he or she previously started.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to determine whether the consumer to the transaction is a participant in a survey and determining whether to solicit survey information from the consumer to the transaction with the motivation of determining if the consumer would be worth keeping and performing transactions with.

As per claim 17, Shkedy discloses:

wherein the transaction record includes information relating to at least one of the category of the transaction and a payment amount of the transaction, and said processor determines whether to solicit survey information based on at least one of a category of the transaction and a payment amount of the transaction, (Col. 5, lines 10-11, [category included in FPO], w/ Col. 5, line 67-Col. 6, line 3, [authenticating and adding to FPO]).

As per claim 18, Shkedy discloses:

wherein the information relating to the consumer to the transaction includes an identification code for the consumer to the transaction, (Col. 5, lines 13-15, [buyer identification]), and the processor compares identification codes of consumers to

transactions with predetermined identification codes of participants in the survey, (Col. 5, lines 61-63, [authenticating buyer identification number against a buyer database]).

As per claim 19, Shkedy discloses:

a merchant interface enabling a merchant to access analyzed survey information, (Col. 11, line 22, [seller interface {300}]).

As per claim 20, Shkedy discloses:

wherein the stored consumer information is provided by a party to a transaction other than the merchant, (Col. 1, lines 8-12, [intermediary]).

As per claims 21-24, Shkedy discloses:

Wherein the code representing instructions to cause a processor to receive transaction information is configured to receive the transaction information from a financial institution associated with the consumer/wherein the monitor is configured to receive the transaction information from a financial institution associated with the consumer/wherein the stored consumer information is provided by a financial institution associated with the consumer, (col. 11, lines 8-12, buyer's bank).

4. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shkedy (US 6,260,024), and further in view of Boe et al (US 6,236,975), and further in view of Kurland et al (US 4,603,232).

As per claim 11, Shkedy discloses:

wherein the information relating to the consumer in the transaction includes a consumer identification code, (Col. 5, lines 13-15, [buyer identification])

Both Shkedy and Boe et al fail to disclose, however Kurland et al discloses:

and the historical consumer information includes at least one of the number of invitations sent to the consumer and the number of surveys completed by the consumer, (Col. 7, lines 24-37, [mail-out-count/quota]).

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to keep track of the number of invitations sent to the consumer and the number of surveys completed by the consumer with the motivation of determining the customers that need more attention.

### ***Response to Arguments***

5. Applicant's arguments filed 4/29/05 have been fully considered but they are not persuasive.

As per claim 1, the applicant argues that Boe does not disclose the following subject matter missing from Shkedy: "determine whether to invite a consumer to complete a survey related to the transaction based at least partially on the comparison of the consumer information and the comparison of the merchant information. The applicant argues that Boe is not concerned with any determination of whether to invite a consumer to complete a survey. It is true that Boe relates to helping a customer who returns to continue a survey that a customer had previously started, however, through helping this customer, a determination is made as to what question to present to a user. This process involves figuring out if that particular customer answered previous questions, and if the customer did answer questions previously for a particular survey, the customer is invited back to participate, however, if the customer did not answer

questions previously for a particular survey, the customer can not participate or will not be invited to complete the questions for that survey.

The applicant also argues that Boe does not disclose or suggest making any determinations about whether to invite a consumer to complete a survey related to a transaction. However, the transaction in Boe is represented by the purchase of products and services as shown in col. 1, lines 58-63. In addition, the applicant argues that there is not determination in Boe of whether to invite a consumer to complete a survey based on any ***comparison of consumer information*** or any ***comparison of merchant information***. However, it is shown in Boe that consumer information, which is represented by which survey question was last answered by the consumer in col. 5, lines 9-22 is stored in the matching database for comparison purposes. In this case, the determination is made based on customer data stored in the matching database about which question he or she answered last relating to some business' products/services also stored by matching database. These business' products/services stored in the database represents the merchant information.

As per claim 10, the applicant argues that neither Shkedy nor Boe disclose or suggest using historical consumer information to determine whether to collect survey information from a consumer in a transaction. However, Shkedy discloses credit history in Col. 10, lines 1-7. Shkedy discloses that for the buyers who participate in a transaction, the credit history is maintained as customer information. In addition, Boe discloses that consumer information is stored in the matching database for comparison purposes in order to determine if the customer can be invited to finish a particular



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survey. Therefore, it is the combination of Shkedy and Boe that suggests using historical consumer information to determine whether to collect survey information from a consumer in a transaction.

As per claim 16, the applicant argues that there is no suggestion in Boe of any component or operation configured to determine whether to solicit survey information from a consumer. However, as described above in reference to claim 1, Boe relates to helping a customer who returns to continue a survey that a customer had previously started, and, through helping this customer, a determination is made as to what question to present to a user. This process involves figuring out if that particular customer answered previous questions, and if the customer did answer questions previously for a particular survey, the customer is invited back to participate, and therefore survey information is solicited from the customer.

As per claims 25 and 26, these claims contain language similar to the recitation of claim 1, and therefore these claims are rejected for the same reasons as discussed above with respect to claim 1.

As per claim 11, this claim depends from claim 10 and is rejected for reasons similar as discussed above with regard to claim 10.

***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Akiba K Robinson-Boyce whose telephone number is 571-272-6734. The examiner can normally be reached on Monday-Tuesday 8:30am-5pm, and Wednesday, 8:30 am-12:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hayes can be reached on 571-272-6708. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7238 [After final communications, labeled "Box AF"], 703-746-7239 [Official Communications], and 703-746-7150 [Informal/Draft Communications, labeled "PROPOSED" or "DRAFT"].

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

*Ans*

A. R. B.  
July 13, 2005

*John W. Hayes*  
JOHN W. HAYES  
PRIMARY EXAMINER